DEPARTMENT OF DEFENSE **BILLING CODE 5001-06**

Office of the Secretary

32 CFR Part 199

[DOD–2006–HA–0207]

RIN 0720-AB15

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Reserve Select; TRICARE Dental Program; Early Eligibility for TRICARE for Certain Reserve Component Members

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: TRICARE Reserve Select (TRS) is a premium-based TRICARE health plan available for purchase worldwide by qualified members of the Ready Reserve and by qualified survivors of TRS members. TRICARE Dental Program (TDP) is a premium-based TRICARE dental plan available for purchase worldwide by qualified Service members. This final rule revises requirements and procedures for the TRS program to specify the appropriate actuarial basis for calculating premiums in addition to making other minor clarifying administrative changes. For a member who is involuntarily separated from the Selected Reserve under other than adverse conditions this final rule provides a time-limited exception that allows TRS coverage in effect to continue for up to 180 days after the date on which the member is separated from the Selected Reserve and TDP coverage in effect to continue for no less than 180 days after the separation date. It also expands early TRICARE eligibility for certain Reserve Component

members from a maximum of 90 days to a maximum of 180 days prior to activation in support of a contingency operation for more than 30 days.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION].

FOR FURTHER INFORMATION CONTACT: Brian Smith, Defense Health Agency, TRICARE Health Plan Division, telephone (703) 681–0039.

Questions regarding payment of specific claims under the TRICARE allowable charge method should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

A. *Overview*

An interim final rule was published in the **Federal Register** on August 20, 2007 (72 FR 46380). That interim final rule addressed provisions of the National Defense Authorization Act for Fiscal Year 2007 (NDAA–07) (Pub. L. 109–364),which expanded eligibility for the TRICARE Reserve Select program to include all Selected Reservists except those individuals either enrolled or eligible to enroll in the Federal Employees Health Benefits program.

Before finalizing the interim final rule, a proposed rule was published in the **Federal Register** on August 27, 2014 (79 FR 51127). The proposed rule addressed provisions of the National Defense Authorization Act for Fiscal Year 2009 (NDAA–09) (Pub. L. 110-417), the National Defense Authorization Act for Fiscal Year 2010 (NDAA–10) (Pub. L. 111-84), and the National Defense Authorization Act for Fiscal Year 2013 (NDAA–13) (Pub. L. 112-239). First, section 704 of NDAA–09 specifies that the appropriate actuarial basis for calculating premiums for TRS shall utilize the actual cost of providing benefits to members and their dependents during preceding calendar years. Second, section 702 of NDAA–10 expands early eligibility for

Reserve Component members issued delayed-effective-date active duty orders from a maximum of 90 days to a maximum of 180 days prior to activation in support of a contingency for more than 30 days. Third, for a member who is involuntarily separated from the Selected Reserve under other than adverse conditions as characterized by the Secretary concerned, section 701 of NDAA–13 provides a time-limited exception that allows TRS coverage already in effect at time of separation to continue for up to 180 days after the date on which the member is separated from the Selected Reserve and TDP coverage already in effect at time of separation to continue for no less than 180 days after the separation date. This exception expires December 31, 2018. Finally, the proposed rule addressed additional administrative clarifications to 32 CFR 199.24, which implements TRS.

This final rule addresses and finalizes the provisions in both the interim final rule and the proposed rule.

B. *Public Comments*

An interim final rule was published in the Federal Register on August 20, 2007 and we received 4 comments (one comment was a duplicate submission). A proposed rule was published in the Federal Register on August 27, 2014 and we received 1 comment. We thank those who provided comments. Specific matters raised by those who submitted comments are summarized below.

II. Provisions of the Rule Regarding Early TRICARE Eligibility

1. *Provisions of Proposed Rule*. Section 199.3(b)(5) implements section 702 of NDAA–10, which specifies that Reserve Component members issued delayed-effective-date orders for service in support of a contingency operation, and their family members, are eligible for TRICARE on the date the orders are issued, up to a maximum of 180 days prior to the date on

which the period of active duty of more than 30 consecutive days is to begin. Previously, members and their family members could become eligible for TRICARE up to a maximum of 90 days prior to the date on which the period of active duty in support of a contingency operation of more than 30 consecutive days is to begin.

2. *Analysis of Major Public Comments*. No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule*. The final rule is consistent with the proposed rule.

III. Provisions of the Rule Regarding the TRICARE Dental Program

A summary of the relevant proposed rule provision is presented, followed by an analysis of major public comments, and by a summary of the final rule provisions.

1. *Provisions of Proposed Final Rule.* So that the existing provisions of § 199.13(c)(3)(ii)(E)(*2*) would not be confused with the new paragraph described below, we proposed to clarify that the continued coverage described in this paragraph is actually survivor coverage. We also proposed to reinsert the provision that the government will pay both the government and the beneficiary's portion of the premium share during the three-year period of continued survivor enrollment, which was inadvertently deleted by a previous amendment to the regulation.

We proposed to add new § 199.13(c)(3)(ii)(E)(*5*) that implements the provisions in section 701 of NDAA– 13 concerning TDP. A time-limited exception is added to the general rule that TDP coverage shall terminate for members who no longer qualify for TDP. This exception specifies that if a member is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, and TDP coverage was in effect for the member and/or the family on the last day of his or her membership in the Selected

Reserve, the TDP coverage that was in effect, whether member coverage and/or family coverage, may terminate no earlier than 180 days after the date on which the member is separated from the Selected Reserve. This exception expires December 31, 2018.

2. *Analysis of Major Public Comments*. No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule*. The final rule is consistent with the proposed rule.

IV. Provisions of the Rule Regarding the TRICARE Reserve Select Program

Many of our proposed clarifications update the rules for TRS (§ 199.24) and, as appropriate, bring the rules in closer alignment and sequencing with the very similar TRICARE Retired Reserve program (§ 199.25).

A. *Establishment of the TRICARE Reserve Select Program* (§ 199.24(a)).

1. *Provisions of Interim Final Rule*. This paragraph describes the nature, purpose, statutory basis, scope, and major features of TRICARE Reserve Select, a premium-based medical coverage program that was made available worldwide to certain members of the Selected Reserve and their family members. TRICARE Reserve Select is authorized by 10 U.S.C. 1076d.

2. *Provisions of the Proposed Rule*. We proposed to remove the existing terminology at § 199.24(a)(4) and to redesignate § 199.24(a)(5) as § 199.24(a)(4). We proposed to clarify that certain special programs established in 32 CFR part 199 are not available to members covered under TRS (§ 199.24(a)(4)(i)(B)).

We proposed to clarify the wording for submitting an initial payment of the appropriate premium along with the request to purchase coverage (§ 199.24(a)(4)(iii)) and to make it consistent throughout this section. We proposed to clarify that both the member and the member's covered family members are provided access priority for care in military treatment

facilities on the same basis as active duty service members' dependents who are not enrolled in TRICARE Prime (§ 199.24(a)(4)(iv)).

3. *Analysis of Major Public Comments*. No public comments were received relating to this section of the rule.

4. *Provisions of the Final Rule*. The final rule is consistent with the interim final rule and the proposed rule.

B. *Qualifications for TRICARE Reserve Select coverage* (§ 199.24(b)).

1. *Provisions of Interim Final Rule.* In the interim final rule, paragraph (b) addressed *TRICARE Reserve Select premiums* (§ 199.24(b)). It continued that members are charged premiums for coverage under TRICARE Reserve Select that represent 28 percent of the total annual premium amount that the Assistant Secretary of Defense, Health Affairs (ASD(HA)) determines on an appropriate actuarial basis as being appropriate for coverage under the TRICARE Standard (and Extra) benefit for the TRICARE Reserve Select eligible population. Premiums are to be paid monthly, except as otherwise established as part of the administrative implementation of TRICARE Reserve Select.

Annual rates for the first year TRICARE Reserve Select was offered (2005) were based on the calendar year annual premiums for the Blue Cross and Blue Shield Standard Service Benefit Plan under the Federal Employees Health Benefits Program, a nationwide plan closely resembling TRICARE Standard (and Extra) coverage, with an adjustment based on estimated differences in covered populations, as determined by the ASD(HA).

Based on an analysis of demographic differences between Blue Cross and Blue Shield members and beneficiaries eligible for TRICARE Reserve Select, the adjustment amount in calendar year 2005 represented a 32 percent reduction from the Blue Cross and Blue Shield

annual premium for member-only coverage and represented an 8 percent reduction from the Blue Cross and Blue Shield annual premium for member and family coverage. (The difference in the percentage reductions between member only and member and family premiums is due to the disproportionately high number of high cost, single, elderly retiree federal employees covered by Blue Cross and Blue Shield member only coverage).

TRICARE Reserve Select monthly premium rates are established and updated annually, on a calendar year basis, to maintain an appropriate relationship with the annual changes in Blue Cross and Blue Shield premiums, or by other adjustment methodology determined to be appropriate by the ASD(HA) for each of the two types of coverage, member-only coverage and member and family coverage, on a calendar year basis. The monthly rate for each month of a calendar year is one twelfth of the annual rate for that calendar year.

In addition to these annual premium changes, premium adjustments may also be made prospectively for any calendar year to reflect any significant program changes or any actual experience in the costs of administering the TRICARE Reserve Select Program.

A surviving family member of a Reserve Component service member who qualified for TRICARE Reserve Select coverage as described in paragraph (c)(3) of this section will pay premium rates as follows. The premium amount shall be at the member-only rate if there is only one surviving family member to be covered by TRICARE Reserve Select and at the member and family rate if there are two or more survivors to be covered.

2. *Provisions of the Proposed Rule*. We proposed to redesignate § 199.24(c) as § 199.24(b) so that it precedes the section on *TRICARE Reserve Select premiums* for clarity and maintains parallel sequencing with § 199.25.

Section 10144(b) of title 10, U.S.C. provides that the Secretary concerned may designate a

category of members within the Individual Ready Reserve (IRR) of each Reserve Component who are subject to being ordered to active duty involuntarily in accordance with section 12304 of title 10, U.S.C. We proposed to clarify that since a member of the IRR who has volunteered to serve in such mobilization category is eligible for benefits (other than pay and training) as are normally available to members of the Selected Reserve, these members may also qualify for TRS (§ 199.24(b)(1)(i)).

We proposed to clarify the exclusion involving the Federal Employees Health Benefits (FEHB) program. Section 199.24(b)(1)(ii) specifies that an otherwise qualified member of the Ready Reserve qualifies to purchase TRS coverage if the member is not enrolled in, or eligible to enroll in, a health benefits plan under chapter 89 of title 5, U.S.C. That statute has been implemented under part 890 of title 5, CFR as the ''Federal Employees Health Benefits'' program. For purposes of the FEHB program, the terms ''enrolled,'' ''enroll'' and ''enrollee'' are defined in § 890.101 of title 5, CFR. We proposed to clarify that the member (or certain involuntarily separated former member) no longer qualifies for TRS coverage when the member has been eligible for active coverage in a health benefits plan under the FEHB program for more than 60 days (§ 199.24(b)(1)(ii)). This affords the member sufficient time to make arrangements for health coverage other than TRS and avoid any days without having health coverage being in force.

We proposed to clarify that qualification for TRS survivor coverage applies regardless of type of coverage in effect on the day of the TRS member's death (§ 199.24(b)(2)).

3. *Analysis of Major Public Comments*. One commenter suggested that we eliminate the exclusion regarding the FEHB program rather than clarify it.

Response. The exclusion is statutory; the Department of Defense has no authority to

eliminate it.

4. *Provisions of the Final Rule*. Note in the proposed rule that we proposed to redesignate paragraph (c) as paragraph (b) so that the section on *Qualifications for TRICARE Reserve Select coverage* would precede the section on *TRICARE Reserve Select premiums* for clarity purposes and to maintain consistent sequencing with § 199.25. Then we proposed to replace the content in the section on *Eligibility for (qualifying to purchase) TRICARE Reserve Select coverage* that appeared in the interim final rule in its entirety with the newly revised section on *Qualifications for TRICARE Reserve Select coverage*. Therefore, the final rule is consistent with the proposed rule.

C. *TRICARE Reserve Select premiums* (§ 199.24(c)).

1. *Provisions of Interim Final Rule.* In the interim final rule, § 199.24(c) addressed *Eligibility for (qualifying to purchase) TRICARE Reserve Select coverage.* It reflected the statutory conditions under which members of a Reserve component may qualify to purchase TRICARE Reserve Select coverage.

2. *Provisions of the Proposed Rule*. We proposed to redesignate § 199.24(b) as § 199.24(c) so that it follows the section on *Qualifications for TRICARE Reserve Select coverage* for clarity purposes and maintains consistent sequencing with § 199.25. We also proposed to clarify that the Director, Healthcare Operations in the Defense Health Agency may establish procedures for administrative implementation related to premiums (§ 199.24(c)).

Section 199.24(c)(1) implements section 704 of NDAA–09, which requires that monthly premiums be determined by utilizing the actual reported cost of providing benefits to TRS members and their dependents during preceding calendar years. Section 704 of NDAA–09 specified that actual TRS cost data from calendar years 2006 and 2007 be utilized in the

determination of premium rates for calendar year 2009. This established pattern has been followed to determine premium rates for all calendar years starting with 2009 (§ 199.24(c)(1)). Further, we proposed to amend § 199.24(c) by deleting all former provisions involving the relationship between premium rates for TRS and premium rates for the Blue Cross and Blue Shield Standard Service Benefit Plan under the Federal Employees Health Benefits program.

3. *Analysis of Major Public Comments*. Three military service organizations commented on the methodology described in the interim final rule to be used for annual TRS premium updates that was based on annual changes in premiums in the Blue Cross/Blue Shield plan offered nationwide by the Federal Employees Health Benefits program. Rather than applying the same percentage increases to TRS premiums that were observed in the federal Blue Cross/Blue Shield nationwide plan, each commenting organization requested that the annual TRS premium increases not exceed the percentage increase in military basic pay.

Response. Section 704 of NDAA–09 added 10 U.S.C. 1076 d(d)(3)(B) to specify that the appropriate actuarial basis for calculating premiums for TRS shall utilize the actual cost of providing benefits to members and their dependents during preceding calendar years. The final rule is consistent with this statutory requirement.

4. *Provisions of the Final Rule*. Note in the proposed rule that we proposed to redesignate paragraph (b) as paragraph (c) so that the section on *TRICARE Reserve Select premiums* would follow the section on *Qualifications for TRICARE Reserve Select coverage* for clarity purposes and to maintain consistent sequencing with § 199.25). Then we proposed to replace the content on *TRICARE Reserve Select premiums* that appeared in the interim final rule in its entirety with the newly revised section on *TRICARE Reserve Select premiums* in order to implement section 704 of NDAA–09. That had the effect of removing all of the former provisions involving the

relationship between premium rates for TRS and premium rates for the Blue Cross and Blue Shield Standard Service Benefit Plan under the Federal Employees Health Benefits program will appear in the amended § 199.24(c). The final rule is consistent with the proposed rule.

D. *Procedures* (§ 199.24(d)).

1. *Provisions of Interim Final Rule.*

The interim final rule addressed procedures for TRS coverage.

2. *Provisions of the Proposed Rule*. We proposed to clarify that the Director, Healthcare Operations in the Defense Health Agency may establish procedures for TRS (§ 199.24(d)).

We proposed to clarify that either reserve members or survivors qualified under § 199.24(b) may follow applicable procedures throughout this section regarding TRS coverage. We proposed to clarify the rule about immediate family members who may be included in family coverage under TRS (§ 199.24(d)(1)), which is further supported by the proposed definition for immediate family member included in § 199.24(g).

We proposed to clarify continuation coverage by removing the previous requirement that the member had to be the sponsor of the other TRICARE coverage in order to qualify for continuation coverage (§ 199.24(d)(1)(i)). In circumstances when the spouse of the Reserve Component member is the sponsor for purposes of the other TRICARE coverage, it would be clear that the qualified member would be able to purchase TRS coverage with an effective date immediately following the date of termination of coverage under another TRICARE program regardless whether it was the Reserve Component member or the spouse who was the sponsor of the other TRICARE coverage.

We proposed rules to implement the provisions in section 701 of NDAA–13 concerning TRS coverage (§ 199.24(d)(3)(i)). Similar to the TDP, this provision would apply to members

involuntarily separated from the Selected Reserve if, and only if, the member was covered by TRS on the last day of his or her membership in the Selected Reserve. However, the termination date of TRS is characterized slightly differently from the TDP provision because TRS may terminate up to 180 days after the date on which the member is separated from the Selected Reserve. This delayed termination exception applies regardless of type of TRS coverage actually in effect at the time. This exception expires December 31, 2018.

We proposed to clarify the rule that procedures may be established for TRS coverage to be suspended for up to one year followed by final termination for members or qualified survivors if they fail to make premium payments in accordance with established procedures or otherwise if they request suspension/ termination of coverage (§ 199.24(d)(3)). Suspension/termination of coverage for the TRS member/survivor will result in suspension/termination of coverage for the member's/survivor's family members in TRS, except as described in § 199.24 (d)(1)(iv). We also proposed to clarify that procedures may be established for the suspension to be lifted upon request before final termination is applied.

3. *Analysis of Major Public Comments*. No public comments were received relating to this section of the rule.

4. *Provisions of the Final Rule*. The final rule is consistent with the interim final rule and the proposed rule.

E. *Preemption of State laws* (§ 199.24(e)).

1. *Provisions of Interim Final Rule.* In the interim final rule, paragraph (e) addressed *Relationship to Continued Health Care Benefits Program (CHCBP)* (§ 199.24(e)). Based on a statutory amendment concerning CHCBP, the Final Rule published September 16, 2011 (76 FR 57637-57641) removed paragraph (e) in its entirety and replaced it with the placeholder (e)

Reserved to maintain numerical sequencing.

3. *Provisions of the Proposed Rule*. We proposed to remove the previous § 199.24(e) *Reserved* and redesignate § 199.24(f) as § 199.24(e). No other changes are proposed this section.

4. *Analysis of Major Public Comments*. No public comments were received relating to this section of the rule.

5. *Provisions of the Final Rule*. The final rule is consistent with the proposed rule.

F. *Administration* (§ 199.25(f)).

1. *Provisions of Interim Final Rule*. In the interim final rule, paragraph (f) addressed *Preemption of State laws* (§ 199.25(f)).

2. *Provisions of the Proposed Rule*. We proposed to redesignate § 199.24(g) as § 199.24(f). We proposed to clarify this provision by removing the phrase, ‘‘based on extraordinary circumstances’’ as a limitation on authority to grant exceptions to requirements of the section and to clarify that the Director, Healthcare Operations in the Defense Health Agency has authority to grant such exceptions and establish administrative rules and procedures for TRS.

3. *Analysis of Major Public Comments*. No public comments were received relating to this section of the rule.

4. *Provisions of the Final Rule*. The final rule is consistent with the proposed rule.

G. *Terminology* (§ 199.25(g)).

1. *Provisions of Interim Final Rule*. In the interim final rule, paragraph (g) addressed *Administration* (§ 199.25(g)).

2. *Provisions of the Proposed Rule*. We proposed to redesignate paragraph (g) as paragraph (f) and to add a new paragraph (g) regarding terminology. This would also remove the terminology under § 199.25(a)(4).

3. *Analysis of Major Public Comments*. No public comments were received relating to this section of the rule.

4. *Provisions of the Final Rule*. The final rule is consistent with the proposed rule.

V. Costs

Fiscal year 2014 through 2019 costs are anticipated to be $7,735,728.00:

Fiscal year	Government cost
2014	$1,296,884
2015	1,373,929
2016	1,455,633
2017	1,542,277
2018	1,634,096
2019	432,909
Total FY14–FY19	7,735,728

VI. Regulatory Procedures

Executive Orders 12866 and 13563 require certain regulatory assessments for any significant regulatory action that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Congressional Review Act establishes certain procedures for major rules, defined as those with similar major impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have significant impact on a substantial number of small entities. This final rule is not subject to any of these requirements because it will not have any of these substantial impacts. However, this rule has been designated a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511).

We have examined the impact(s) of the final rule under Executive Order 13132 and it does not have policies that have federalism implications that will have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The preemption provisions in the rule conform to law and long-established TRICARE policy. Therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, the interim final rule published at 72 FR 46380 on August 20, 2007, amending 32 CFR part 199 is adopted as a final rule with the following changes:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Amend § 199.3 by revising paragraph (b)(5)(iii)(B) to read as follows:

§ 199.3 Eligibility.

* * * * *

(b) * * *

(5) * * *

(iii) * * *

(B) 180 days before the date on which the period of active duty is to begin.

* * * * *

3. Amend § 199.13 by revising paragraph (c)(3)(ii)(E)(2) introductory text and adding paragraph (c)(3)(ii)(E)(5) to read as follows:

§ 199.13 TRICARE Dental Program.

* * * * *

(c) * * *

(3) * * *

(ii) * * *

(E) * * *

(2) *Survivor eligibility.* Eligible dependents of active duty members who die while on active duty for a period of more than 30 days and eligible dependents of members of the Ready Reserve (i.e., Selected Reserve or Individual Ready Reserve, as specified in 10 U.S.C. 10143 and 10144(b) respectively) who die, shall be eligible for survivor enrollment in the TDP. During the period of survivor enrollment, the government will pay both the government and the eligible dependent's portion of the premium share. This survivor enrollment shall be up to (3) three years from the date of the member's death, except that, in the case of a dependent of the deceased who is described in 10 U.S.C. 1072(2)(D) or (I), the period of survivor enrollment shall be the longer of the following periods beginning on the date of the member's death:

* * * * *

(5) TRICARE Dental Program coverage shall terminate for members who no longer qualify for the TRICARE Dental Program as specified in paragraph (c)(2) of this section, with one exception. If a member is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, and TRICARE Dental Program coverage is in effect for the member and/or the family on the last day of his or her membership in the Selected Reserve; then the TRICARE Dental Program coverage that was actually in effect may terminate no earlier than 180 days after the date on which the member is separated from the

Selected Reserve. This exception expires December 31, 2018.

* * * * *

4. Amend § 199.24 as follows.

a. Remove paragraph (a)(4).

b. Redesignate paragraph (a)(5) as paragraph (a)(4).

c. Revise newly redesignated paragraphs (a)(4)(i)(B), (a)(4)(iii), and (a)(4)(iv).

d. Redesignate paragraphs (b) and (c) as paragraphs (c) and (b), respectively.

e. Revise newly redesignated paragraphs (b) and (c).

f. Revise paragraph (d).

g. Redesignate paragraphs (f) and (g) as paragraphs (e) and (f), respectively.

h. Revise newly redesignated paragraph (f).

i. Add new paragraph (g).

The revisions and additions read as follows:

§ 199.24 TRICARE Reserve Select.

(a) * * *

(4) * * *

(i) * * *

(B) Certain special programs established in 32 CFR part 199 are not available to members covered under TRICARE Reserve Select. These include the Extended Care Health Option (§ 199.5), the Special Supplemental Food Program (see § 199.23), and the Supplemental Health Care Program (§ 199.16), except when referred by a Military Treatment Facility (MTF) provider for incidental consults and the MTF provider maintains clinical control over the episode of care. The TRICARE Dental Program (§ 199.13) is independent of this program and is otherwise

available to all members of the Selected Reserve and their eligible family members whether or not they purchase TRICARE Reserve Select coverage. The Continued Health Care Benefits Program (§ 199.20) is also independent of this program and is otherwise available to all members who qualify.

* * * * *

(iii) *Procedures.* Under TRICARE Reserve Select, Reserve Component members who fulfilled all of the statutory qualifications may purchase either the member-only type of coverage or the member-and-family type of coverage by submitting a completed request in the appropriate format along with an initial payment of the applicable premium. Rules and procedures for purchasing coverage and paying applicable premiums are prescribed in this section.

(iv) *Benefits.* When their coverage becomes effective, TRICARE Reserve Select beneficiaries receive the TRICARE Standard (and Extra) benefit including access to military treatment facility services and pharmacies, as described in §§ 199.17 and 199.21. TRICARE Reserve Select coverage features the deductible and cost share provisions of the TRICARE Standard (and Extra) plan applicable to active duty family members for both the member and the member's covered family members (paragraph (a)(4)(iv) of this section). Both the member and the member's covered family members are provided access priority for care in military treatment facilities on the same basis as active duty service members' dependents who are not enrolled in TRICARE Prime as described in § 199.17(d)(1)(i)(D).

(b) *Qualifications for TRICARE Reserve Select coverage*—(1) *Ready Reserve member.* A Ready Reserve member qualifies to purchase TRICARE Reserve Select coverage if the Service member meets both the following criteria:

(i) Is a member of the Selected Reserve of the Ready Reserve of the Armed Forces, or a

member of the Individual Ready Reserve of the Armed Forces who has volunteered to be ordered to active duty pursuant to the provisions of 10 U.S.C. 12304 in accordance with section 10 U.S.C. 10144(b); and

(ii) Is not enrolled in, or eligible to enroll in, a health benefits plan under 5 U.S.C. chapter 89. That statute has been implemented under 5 CFR part 890 as the Federal Employees Health Benefits (FEHB) program. For purposes of the FEHB program, the terms ‘‘enrolled,’’ ‘‘enroll’’ and ‘‘enrollee’’ are defined in 5 CFR 890.101. Further, the member (or certain former member involuntarily separated) no longer qualifies for TRICARE Reserve Select when the member (or former member) has been eligible for coverage to be effective in a health benefits plan under the FEHB program for more than 60 days.

(2) *TRICARE Reserve Select survivor.* If a qualified Service member dies while in a period of TRICARE Reserve Select coverage, the immediate family member(s) of such member is qualified to purchase new or continue existing TRICARE Reserve Select coverage for up to six months beyond the date of the member’s death as long as they meet the definition of immediate family members as specified in paragraph (g)(2) of this section. This applies regardless of type of coverage in effect on the day of the TRICARE Reserve Select member’s death.

(c) *TRICARE Reserve Select premiums.* Members are charged premiums for coverage under TRICARE Reserve Select that represent 28 percent of the total annual premium amount that the Director, Defense Health Agency determines on an appropriate actuarial basis as being appropriate for coverage under the TRICARE Standard (and Extra) benefit for the TRICARE Reserve Select eligible population. Premiums are to be paid monthly, except as otherwise provided through administrative implementation, pursuant to procedures established by the Director, Healthcare Operations in the Defense Health Agency. The monthly rate for each month

of a calendar year is one-twelfth of the annual rate for that calendar year.

(1) *Annual establishment of rates.* TRICARE Reserve Select monthly premium rates shall be established and updated annually on a calendar year basis for each of the two types of coverage, member-only and member- and-family as described in paragraph (d)(1) of this section. Starting with calendar year 2009, the appropriate actuarial basis for purposes of this paragraph (c) shall be determined for each calendar year by utilizing the actual reported cost of providing benefits under this section to members and their dependents during the calendar years preceding such calendar year. Reported actual TRS cost data from calendar years 2006 and 2007 was used to determine premium rates for calendar year 2009. This established pattern will be followed to determine premium rates for all calendar years subsequent to 2009.

(2) *Premium adjustments.* In addition to the determinations described in paragraph (c)(1) of this section, premium adjustments may be made prospectively for any calendar year to reflect any significant program changes or any actual experience in the costs of administering TRICARE Reserve Select.

(3) *Survivor premiums.* A surviving family member of a Reserve Component service member who qualified for TRICARE Reserve Select coverage as described in paragraph (b)(2) of this section will pay premium rates as follows. The premium amount shall be at the member-only rate if there is only one surviving family member to be covered by TRICARE Reserve Select and at the member and family rate if there are two or more survivors to be covered.

(d) *Procedures.* The Director, Healthcare Operations in the Defense Health Agency, may establish procedures for the following.

(1) *Purchasing coverage.* Procedures may be established for a qualified member to purchase one of two types of coverage: Member-only coverage or member and family coverage.

Immediate family members of a qualified member as specified in paragraph (g)(2) of this section may be included in such family coverage. To purchase either type of TRICARE Reserve Select coverage for effective dates of coverage described below, members and survivors qualified under either paragraph (b)(1) or (2) of this section must submit a request in the appropriate format, along with an initial payment of the applicable premium required by paragraph (c) of this section in accordance with established procedures.

(i) *Continuation coverage.* Procedures may be established for a qualified member or qualified survivor to purchase TRICARE Reserve Select coverage with an effective date immediately following the date of termination of coverage under another TRICARE program.

(ii) *Qualifying life event.* Procedures may be established for a qualified member or qualified survivor to purchase TRICARE Reserve Select coverage on the occasion of a qualifying life event that changes the immediate family composition (e.g., birth, adoption, divorce, etc.) that is eligible for coverage under TRICARE Reserve Select. The effective date for TRICARE Reserve Select coverage will coincide with the date of the qualifying life event. It is the responsibility of the member to provide personnel officials with the necessary evidence required to substantiate the change in immediate family composition. Personnel officials will update DEERS in the usual manner. Appropriate action will be taken upon receipt of the completed request in the appropriate format along with an initial payment of the applicable premium in accordance with established procedures.

(iii) *Open enrollment.* Procedures may be established for a qualified member to purchase TRICARE Reserve Select coverage at any time. The effective date of coverage will coincide with the first day of a month.

(iv) *Survivor coverage under TRICARE Reserve Select.* Procedures may be established for a

surviving family member of a Reserve Component service member who qualified for TRICARE Reserve Select coverage as described in paragraph (b)(2) of this section to purchase new TRICARE Reserve Select coverage or continue existing TRICARE Reserve Select coverage for up to six months beyond the date of the member's death. The effective date of coverage will be the day following the date of the member's death.

(2) *Changing type of coverage.* Procedures may be established for TRICARE Reserve Select members to request to change type of coverage during open enrollment as described in paragraph (d)(1)(iii) of this section or on the occasion of a qualifying life event that changes immediate family composition as described in paragraph (d)(1)(ii) of this section by submitting a completed request in the appropriate format.

(3) *Suspension and termination.* Suspension/termination of coverage for the TRS member/survivor will result in suspension/termination of coverage for the member's/survivor's family members in TRICARE Reserve Select, except as described in paragraph (d)(1)(iv) of this section. Procedures may be established for coverage to be suspended or terminated as follows.

(i) Coverage shall terminate when members or survivors no longer qualify for TRICARE Reserve Select as specified in paragraph (b) of this section, with one exception. If a member is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, and is covered by TRICARE Reserve Select on the last day of his or her membership in the Selected Reserve, then TRICARE Reserve Select coverage may terminate up to 180 days after the date on which the member was separated from the Selected Reserve. This applies regardless of type of coverage. This exception expires December 31, 2018.

(ii) Coverage may terminate for members, former members, and survivors who gain coverage

under another TRICARE program.

(iii) Coverage may be suspended and finally terminated for members/ survivors who fail to make premium payments in accordance with established procedures.

(iv) Coverage may be suspended and finally terminated for members/ survivors upon request at any time by submitting a completed request in the appropriate format in accordance with established procedures.

(v) Under paragraph (d)(3)(iii) or (iv) of this section, TRICARE Reserve Select coverage may first be suspended for a period of up to one year followed by final termination. Procedures may be established for the suspension to be lifted upon request before final termination is applied.

(4) *Processing.* Upon receipt of a completed request in the appropriate format, enrollment actions will be processed into DEERS in accordance with established procedures.

(5) *Periodic revision.* Periodically, certain features, rules or procedures of TRICARE Reserve Select may be revised. If such revisions will have a significant effect on members' or survivors' costs or access to care, members or survivors may be given the opportunity to change their type of coverage or terminate coverage coincident with the revisions.

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(f) *Administration.* The Director, Healthcare Operations in the Defense Health Agency may establish other rules and procedures for the effective administration of TRICARE Reserve Select, and may authorize exceptions to requirements of this section, if permitted by law.

(g) *Terminology.* The following terms are applicable to the TRICARE Reserve Select program.

(1) *Coverage.* This term means the medical benefits covered under the TRICARE Standard

or Extra programs as further outlined in other sections of 32 CFR part 199 whether delivered in military treatment facilities or purchased from civilian sources.

(2) *Immediate family member.* This term means spouse (except former spouses) as defined in § 199.3(b)(2)(i), or child as defined in § 199.3(b)(2)(ii).

(3) *Qualified member.* This term means a member who has satisfied all the criteria that must be met before the member is authorized for TRS coverage.

(4) *Qualified survivor.* This term means an immediate family member who has satisfied all the criteria that must be met before the survivor is authorized for TRS coverage.

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Aaron Siegel,
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